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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,604	03/08/2004	Richard S. Bein	355492-2971	1765

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EXAMINER
SAMALA, JAGADISHWAR RAO

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Amendment

1. The amendment filed on July 17, 2007 has been entered.

Previous rejections that are not reiterated herein are withdraw.

Response to Arguments

2. Applicant's arguments filed on July 17, 2007 with respect to rejection of claims 1-16 under U.S.C. 102 (b) have been fully considered and are not persuasive. Applicant argues that both Evans et al. (US 6,342,202) and Greff et al. (US 5,667,767) fails to teach a ratio of polymer to contrast agent of greater than 0.055 when the contrast agent is employed in amounts greater than 40 weight percent.

Response.

First the instant claim 1, wherein the ratio of biocompatible polymer to the water-insoluble contrast agent is about 0.055 or greater. The set forth upper limit "greater" is not clear. Greater means to what extent it is greater.

Secondly, both Evans et al, and Greff et al clearly teaches the ration of biocompatible polymer to the water-insoluble contrast agents used in the compositions suitable for use in embolizing blood vessels. Evan teaches composition comprising 5.8 weight percent poly(carbonate-urethane), 20 weight percent tantalum in DMSO (This proportion will give a ratio of 0.29, see col. 8, Examples 2 and 3). This ratio reads on the limitation of the instant claims. And also, Greff teaches composition comprising 6 weight percent of the ethylene vinyl alcohol copolymer, 35 weight percent of a tantalum contrast agent in DMSO (again this proportion will give a ration of 0.171, see col. 4,

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lines 40-44). Further, any prior art that is "capable of performing said function in the instant invention (the prior art need not recite the same function, but only the same means) is encompassed by said means. For example, embolization techniques requiring deep vascular penetration will require a composition having specifically, suitable polymers ideally be soluble in the biocompatible solvent, be easy to deliver via a catheter or a syringe, be compatible with a contrast agent, and the resulting precipitate should form a well defined coherent mass to successful embolization.

Likewise, compatibility with the contrast agent is necessary in order to permit monitoring the in vivo injection of the composition and to confirm its presence after the procedure is complete.

Conclusion

1. No claims are allowed at this time.
2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the

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statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagadishwar R. Samala whose telephone number is (571)272-9927. The examiner can normally be reached on 8.30 A.M to 5.00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571)272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jagadishwar R Samala
Examiner
Art Unit 1618

Zohreh Fay
Primary Examiner
Art Unit 1618

